### UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	) ) ) MDL NO. 1456 ) Civil Action No. 01-12257-PBS
THIS DOCUMENT RELATES TO THE	) Hon. Patti B. Saris
AMENDED MASTER CONSOLIDATED CLASS ACTION	) Chief Mag. Judge Marianne B. Bowler )
	)

## DEFENDANTS' MOTION TO COMPEL THIRD PARTY HEALTH NET, INC. TO PRODUCE DOCUMENTS PURSUANT TO SUBPOENA

Defendants to the Amended Master Consolidated Class Action Complaint respectfully move this Court for an order compelling third party Health Net, Inc. to produce relevant documents pursuant to the revised subpoena served upon them on April 30, 2004 and for such other and further relief as the Court deems just and appropriate. The grounds for this motion are set forth in the accompanying memorandum of law and exhibits.

#### REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d) the undersigned counsel hereby request oral argument on the issues set forth in this motion and the accompanying memorandum of law and exhibits.

#### **CERTIFICATION PURSUANT TO LOCAL RULE 7.1**

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certify that counsel for defendants conferred with counsel for third party Health Net, Inc. regarding the issues addressed in this motion, but were unable to resolve or further narrow the issues.

Respectfully submitted,

Andrew D. Schau (admitted *pro hac vice*) Erik Haas (admitted *pro hac vice*)

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Attorneys for Defendants Johnson & Johnson, Centocor Inc. Ortho Biotech Products L.P., Janssen Pharmaceutica L.P. and McNeil-PPC on behalf of all defendants to the Amended Master Consolidated Class Action Complaint

Dated: November 17, 2004

# UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

In Re: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION )	MDL No. 1456  Master File No. 01-CV-12257-PBS
THIS DOCUMENT RELATES TO: THE AMENDED MASTER CONSOLIDATED CLASS ACTION	Judge Patti B. Saris  Chief Mag. Judge Marianne B. Bowler
PARTY HEALTH NET, IN	FENDANTS' MOTION TO COMPEL THIRD C. TO PRODUCE DOCUMENTS TO SUBPOENA
Having considered each of the	parties' and third parties submissions with respect
to Defendants' Motion To Compel Third Part	ty Health Net, Inc. To Produce Documents Pursuant
To Subpoena, the Court hereby grants the mo	tion.
It is hereby ordered that Health	h Net produce to defendants within fourteen days of
the entry of this order (1) an un-redacted copy	y of its production to date without any watermarks
on the text and including previously missing	pages; (2) the additional responsive documents
sought by defendants in their letter to Health	Net dated October 15, 2004. It is further ordered
that Health Net produce claims data without	any redactions other than those agreed by
defendants' counsel and subject to the protect	tions of the HIPAA protective order within six
weeks of the date of this order.	
Dated:	Hon. Marianne B. Bowler United States Magistrate Judge

#### **CERTIFICATE OF SERVICE**

I certify that on November 17, 2004, a true and correct copy of the forgoing Defendants' Motion To Compel Third Party Health Net, Inc. To Produce Documents Pursuant To Subpoena was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties. I further certify that a copy was served on November 17, 2004 on counsel for third party Health Net, Inc. by Federal Express.

Andrew D. Schau